



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048

800-684-6560 (in PA only)
November 13, 2007

IRWINA. POPOWSKY
Consumer Advocate

FAX (717) 783-7152
consumer@paoca.org

EX PARTE

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, NW
Room TW-A325
Washington, D.C. 20554

**Re: Petitions of the Verizon Telephone Companies for Forbearance Pursuant to
47 U.S.C. § 160(c) in the Boston, New York, Philadelphia, Pittsburgh,
Providence and Virginia Beach Metropolitan Statistical Areas, WC Docket
No. 06-172 (via electronic filing)**

Dear Ms. Dortch:

On November 9, 2007, Joel Cheskis and Wendy Jastremsky, both of the Pennsylvania Office of Consumer Advocate, and Christopher White, of the New Jersey Division of Rate Counsel, met with Ian Dillner of Commissioner Martin's office regarding the above-referenced matter.

The attached Powerpoint slide presentation was discussed during this meeting. The slide presentation effectively summarizes the Comments filed by the National Association of State Utility Consumer Advocates (NASUCA) and affiliated organizations at this docket on March 5, 2007.

Please indicate your receipt of this filing on the additional copy provided and return it to the undersigned in the enclosed self-addressed, postage prepaid, envelope.

Very truly yours,

A handwritten signature in black ink, appearing to read "Joel Cheskis".

Joel Cheskis
Assistant Consumer Advocate

Enclosure

cc: Ian Dillner, FCC
David Bergmann, NASUCA

96318

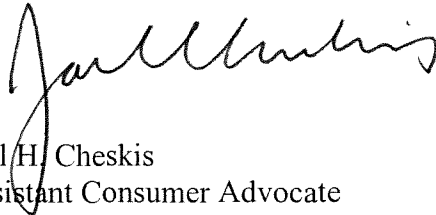
BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

Re: Petitions of the Verizon Telephone Companies for Forbearance Pursuant to 47
U.S.C. § 160(c) in the Boston, New York, Philadelphia, Pittsburgh, Providence
and Virginia Beach Metropolitan Statistical Areas, WC Docket No. 06-172

I hereby certify that I have this day served a true copy of the foregoing document, Office
of Consumer Advocate's Ex Parte Letter, upon parties of record in this proceeding.

Dated this 13th day of November, 2007.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joel H. Cheskis". The signature is fluid and cursive, with a large initial "J" and "C".

Joel H. Cheskis
Assistant Consumer Advocate

Counsel for
Office of Consumer Advocate
555 Walnut Street, Forum Place, 5th Floor
Harrisburg, PA 17101-1923
(717) 783-5048

Verizon 6 MSA

Forbearance Petitions

Presentation by the

National Association of State Utility Consumer Advocates,
the Pennsylvania Office of Consumer Advocate,
the Public Utility Law Project of New York,
the Massachusetts Office of Attorney General,
the Virginia Office of Attorney General,
the Maryland Office of People's Counsel,
the New Jersey Division of Rate Counsel,
the New Hampshire Office of Consumer Advocate and
the Connecticut Office of Consumer Counsel

November 6, 2007

Overview

- ▶ Forbearance Requires a High Standard
- ▶ Verizon's Petitions are Overreaching
- ▶ Many Important Consumer Protections Will Be Lost if Forbearance is Granted
- ▶ The Evidence Presented Does Not Support Granting the Petitions as Filed

Forbearance Requires a High Standard Be Satisfied

- ▶ Section 160(a) is conjunctive; Verizon must meet *all* three prongs for *each* regulation in *each* geographic market in which it seeks forbearance
- ▶ Section 160(b) requires the “promotion” or “enhancement” of competition; it is not enough to not harm competition

Forbearance Requires a High Standard Be Satisfied

- ▶ Past FCC cases have recognized that forbearance must be consistent with the public interest (PageNet, CTIA, Fones4All)
- ▶ Questions exist regarding Section 160 as a violation of Separation of Powers and Equal Protection Doctrine
- ▶ Forbearance is bad regulatory policy (*see, Biley editorial, 10/1/07, for example*)

Verizon's Petitions are Overreaching

- ▶ Verizon's Petitions seek significantly more relief than Qwest's Petition in the *Omaha Order*

<u>Forbearance Sought</u>	<u>Verizon</u>	<u>Qwest</u>
Relief from <u>Computer III</u> regulations	Yes	No
Relief from obligations imposed in merger	Yes	No
Relief from Price Cap Regulations (SLC)	Yes	No
Relief from Service Quality Regulations	Yes	No
Relief from Discontinuance Regulations	Yes	No

Verizon's Petitions are Overreaching

- ▶ FCC recognized in *Omaha Order* that its decision was based on facts unique to the Omaha MSA and similar facts in different markets may not result in same outcome
- ▶ This is not a "me too" filing
- ▶ FCC must also take an exchange by exchange analysis and deny forbearance where there is no supporting evidence

Many Consumer Protections Will Be Lost if Forbearance is Granted

- ▶ Qwest sought forbearance from wholesale issues whereas Verizon's Petitions impact consumer protections and benefits, and are crammed in a footnote in the Petitions
- ▶ Verizon's requests will impact those millions of consumers who still rely on basic local telephone service and do not purchase a bundle of services

Many Consumer Protections Will Be Lost if Forbearance is Granted

- ▶ Availability of loops and transport UNEs support the competitive provision of telecom service; without them, *new* competitors would effectively be foreclosed
- ▶ Verizon is still the dominant carrier
- ▶ Removing price cap regulations could allow an increase in the Subscribe Line Charge

Many Consumer Protections Will Be Lost if Forbearance is Granted

- ▶ Regulations regarding transfers of control, discontinuance, reduction and impairment of services provide vital consumer protections and benefits
- ▶ Merger proceedings effect consumers
- ▶ ARMIS data should be maintained
- ▶ Verizon seeks to circumvent the vital national policy debate on net neutrality

The Evidence Does Not Support Granting the Petitions

- ▶ From a public policy perspective, these important decisions should not be based on a significant amount of confidential evidence
- ▶ Verizon has misused 911 data and jeopardized that vital public safety program
- ▶ Competition should be evidenced by a decrease in retail rates, not a decrease in access lines

The Evidence Does Not Support Granting the Petitions

- ▶ Verizon has failed to meet ***all*** three prongs of the forbearance test for ***each*** regulation in ***each*** geographic market
- ▶ Verizon seeks forbearance from protections for consumers who may never see any benefits of competition (low-income, rural customers, etc); these customers need these protections the most

The Evidence Does Not Support Granting the Petitions

- ▶ Cable companies' telephone service is not ubiquitous; Verizon's reliance on marketing statements is not sufficient evidence
- ▶ VoIP service is not substitutable given the important technical limitations and reliance on underlying broadband service

The Evidence Does Not Support Granting the Petitions

- ▶ Verizon's reliance on wireless service as evidence of competition is misplaced; the great majority of consumers use wireless as a *supplement* to their wireline service
- ▶ Wireless service is not comparable and is limited in its usefulness
- ▶ Verizon is majority owner of one of the largest wireless companies in the country

The Evidence Does Not Support Granting the Petitions

- ▶ The services Verizon relies on to support its claims of competition are not substitutes for basic local telephone service
- ▶ Bundled packages are valuable but basic local exchange service must remain a viable and protected alternative for the millions of consumers who cannot obtain a bundle
- ▶ Even Verizon's rates for bundled packages are increasing

The Evidence Does Not Support Granting the Petitions

- ▶ Verizon's reliance on a reduction in access lines is not evidence of competition
- ▶ Verizon has selected a starting point for its calculation that maximizes the line loss
- ▶ Verizon does not consider lines lost for non-competitive reasons
- ▶ It is unclear how Verizon treated lines previously served by MCI

Conclusion

- ▶ Verizon has failed to satisfy the very high standard for granting of forbearance
- ▶ Verizon's Petitions seek too much
- ▶ Fundamental consumer protections will be lost for those who need those protections the most
- ▶ Verizon has failed to provide sufficient evidence to support its Petitions